

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL 408  
Judiciary Committee Substitute Adopted 5/5/21  
House Committee Substitute Favorable 6/28/22  
House Committee Substitute #2 Favorable 6/28/22

Short Title: Rural Healthcare Access & Savings Plan Act.

(Public)

Sponsors:

Referred to:

March 31, 2021

1 A BILL TO BE ENTITLED  
2 AN ACT TO DIRECT OVERSIGHT, STUDY, AND MODERNIZATION OF MEDICAID IN  
3 NORTH CAROLINA, TO ENSURE TAXPAYER SAVINGS, AND TO ENSURE ACCESS  
4 TO HEALTHCARE FOR WORKING NORTH CAROLINIANS.

5 The General Assembly of North Carolina enacts:

6  
7 **JOINT LEGISLATIVE COMMITTEE ON MEDICAID RATE MODERNIZATION AND**  
8 **SAVINGS**

9 **SECTION 1.1.(a)** There is created the Joint Legislative Committee on Medicaid  
10 Rate Modernization and Savings (Committee).

11 **SECTION 1.1.(b)** The Committee shall consist of six members of the Senate  
12 appointed by the President Pro Tempore of the Senate and six members of the House of  
13 Representatives appointed by the Speaker of the House of Representatives. The President Pro  
14 Tempore of the Senate and the Speaker of the House of Representatives shall each appoint a  
15 cochair of the Committee from among its membership.

16 **SECTION 1.1.(c)** The purpose of the Committee is to do all of the following:

17 (1) Using specific data provided from the Department of Health and Human  
18 Services, Division of Health Benefits (DHB), to substantiate any information  
19 provided by DHB, assess whether DHB is appropriately completing all of the  
20 following tasks:

- 21 a. Monitoring the number of individuals enrolled in Medicaid and  
22 reporting that information to the General Assembly on a regular basis.  
23 b. Assessing whether Medicaid beneficiaries are appropriately using  
24 covered services, including preventative care services.  
25 c. Determining whether prepaid health plans and local management  
26 entities/managed care organizations (LME/MCOs) are appropriately  
27 incentivized to properly manage Medicaid beneficiaries enrolled in  
28 standard benefit plans and BH IDD tailored plans, as applicable,  
29 including any beneficiaries who are temporarily enrolled in the  
30 applicable plan.

31 (2) Consider, and make a recommendation to the General Assembly regarding,  
32 the plan to modernize Medicaid put forth by the Department of Health and  
33 Human Services (DHHS), as required by Section 1.2 of this act. The Secretary  
34 of DHHS shall present this plan to the Committee at a Committee meeting to



1 take place December 15, 2022. The Committee shall vote on its  
2 recommendation at that time.

3 **SECTION 1.1.(d)** The Committee shall meet upon the call of its cochairs. A quorum  
4 of the Committee is a majority of its members. No action may be taken except by a majority vote  
5 at a meeting at which a quorum is present. The Committee, while in the discharge of its official  
6 duties, may exercise all powers provided for under G.S. 120-19 and G.S. 120-19.1 through  
7 G.S. 120-19.4. Members of the Committee shall receive per diem, subsistence, and travel  
8 allowance as provided in G.S. 120-3.1. Any expenses of the Committee shall be considered  
9 expenses incurred for the joint operation of the General Assembly.

10 **SECTION 1.1.(e)** The Legislative Services Officer shall assign professional and  
11 clerical staff to assist the Committee in its work. The Director of Legislative Assistants of the  
12 House of Representatives and the Director of Legislative Assistants of the Senate shall assign  
13 clerical support to the Committee.

14 **SECTION 1.1.(f)** The Committee may submit its recommendations, along with a  
15 copy of the plan from DHHS and any recommended legislation, to the members of the Senate  
16 and the House of Representatives by filing a copy of the proposed legislation with the Office of  
17 the President Pro Tempore of the Senate and the Office of the Speaker of the House of  
18 Representatives. The Committee shall terminate upon the adjournment of its December 15, 2022,  
19 meeting.  
20

## 21 **MEDICAID MODERNIZATION PLAN**

22 **SECTION 1.2.(a)** The Department of Health and Human Services (DHHS) is  
23 directed to develop a Medicaid Modernization Plan (Plan). No later than December 15, 2022, the  
24 Plan shall be submitted, along with any recommended legislative changes necessary to  
25 implement the plan, to the Joint Legislative Oversight Committee on Medicaid Rate  
26 Modernization and Savings (Committee), as established in Section 1.1 of this act. DHHS shall  
27 make a presentation that includes the details of its Plan to that Committee on December 15, 2022.  
28 The Plan shall include all of the following:

- 29 (1) The adjustment to Medicaid eligibility to allow individuals described in  
30 section 1902(a)(10)(A)(i)(VIII) of the Social Security Act to qualify for  
31 Medicaid coverage with a start date to be proposed by the Secretary of DHHS.  
32 Individuals who are not United States citizens shall not be covered except to  
33 the extent required by federal law.
- 34 (2) Proposed legislation to discontinue Medicaid coverage for the individuals  
35 described under subdivision (1) of this subsection if (i) the federal share of the  
36 cost of providing the coverage becomes less than ninety percent (90%) or (ii)  
37 the nonfederal share of the cost of the Medicaid coverage for these individuals  
38 cannot be fully funded through the following sources: revenue from the gross  
39 premiums tax under G.S. 105-228.5 due to this coverage, increases in  
40 intergovernmental transfers due to this coverage, the health system assessment  
41 outlined in Section 1.6 of this act, and savings to the State attributable to this  
42 coverage that correspond to State General Fund budget reductions to other  
43 State programs.
- 44 (3) Proposed legislation to enact increased hospital assessments to pay the  
45 nonfederal share of an increase to Medicaid hospital reimbursements through  
46 the Hospital Access and Stabilization Program (HASP), that meets all  
47 requirements contained in Section 1.10 of this act.
- 48 (4) Proposed legislation for the health system assessments outlined in Section 1.6  
49 of this act.
- 50 (5) An investment of one billion dollars (\$1,000,000,000) in nonrecurring funds  
51 to address the opioid, substance abuse, and mental health crisis in this State

1 using savings from the additional federal Medicaid match available under the  
2 American Rescue Plan Act (ARPA). This investment must be informed by  
3 recommendations made by a task force established by DHHS consisting of  
4 leaders from the faith-based community, law enforcement, mental health  
5 professionals, drug addiction specialists, LME/MCOs operating BH IDD  
6 tailored plans, emergency management services, and any other stakeholders,  
7 as determined by DHHS.

8 (6) Projections of savings in the existing Medicaid program from implementation  
9 of the Plan.

10 (7) Specific proposals to increase access to preventive care for Medicaid  
11 enrollees.

12 (8) Specific proposals to increase access to healthcare in rural areas of the State.

13 **SECTION 1.2.(b)** In accordance with Section 1.1(f) of this act, at the December 15,  
14 2022, meeting of the Committee, the Committee may make recommendations regarding this  
15 report to the General Assembly.

16 **SECTION 1.2.(c)** The General Assembly shall take action on or after December 16,  
17 2022, and prior to the sine die adjournment of the 2021 General Assembly, to enact legislation  
18 to implement the Medicaid Modernization Plan, in whole or in part. The legislation shall not  
19 contain matters other than the Medicaid Modernization Plan and the HASP proposal associated  
20 with the Plan. No portion of the Medicaid Modernization Plan shall be implemented without  
21 legislative action taken on or after December 16, 2022, expressly authorizing implementation.  
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### 23 **ARPA TEMPORARY SAVINGS FUND**

24 **SECTION 1.3.** The ARPA Temporary Savings Fund is established as a nonreverting  
25 special fund in the Department of Health and Human Services, Division of Health Benefits  
26 (DHB). The ARPA Temporary Savings Fund shall consist of any savings realized by DHB as a  
27 result of federal receipts arising from the enhanced federal medical assistance percentage  
28 (FMAP) available to the State under section 9814 of the American Rescue Plan Act of 2021, P.L.  
29 117-2 (ARPA). Upon receipt by DHB of any federal receipts arising from that enhanced FMAP,  
30 DHB is directed to deposit the savings associated with those receipts into the ARPA Temporary  
31 Savings Fund. Funds in the ARPA Temporary Savings Fund may be allocated or expended only  
32 upon an act of appropriation by the General Assembly. It is the intent of the General Assembly  
33 that at least one billion dollars (\$1,000,000,000) of these funds be expended on addressing mental  
34 health and substance abuse issues in this State.  
35

### 36 **HEALTH SYSTEM ASSESSMENTS**

37 **SECTION 1.6.(a)** It is the intent of the General Assembly to enact legislation  
38 creating new assessments to be called health system assessments. The health system assessments  
39 are intended to meet all of the following criteria:

40 (1) The health system assessments shall consist of a public hospital health system  
41 assessment and a private hospital health system assessment. The assessments  
42 shall apply to public acute care hospitals and private acute care hospitals as  
43 defined under G.S. 108A-145.3.

44 (2) The assessments shall be assessed as a percentage of each hospital's hospital  
45 costs. The assessment percentage shall be calculated quarterly by the  
46 Department of Health and Human Services.

47 (3) The assessments shall collect an aggregate amount to fund the nonfederal  
48 share of the service costs and administrative costs associated with the  
49 Medicaid coverage for newly eligible individuals under the Medicaid  
50 Modernization Plan, subject to the offsets in subdivision (4) of this subsection.  
51 The administrative costs shall include State and county administrative costs.

1 Amounts collected for county administrative costs shall be reimbursed to the  
2 county departments of social services.

3 (4) The aggregate assessment collection amount shall be subject to an offset for  
4 increased receipts from the gross premiums tax under G.S. 105-228.5 and an  
5 offset for intergovernmental transfers from the University of North Carolina  
6 at Chapel Hill, the East Carolina University Brody School of Medicine, and  
7 public hospitals.

8 (5) The share of the aggregate assessment collection amount collected from  
9 public acute care hospitals shall be the public hospital historical assessment  
10 share under G.S. 108A-145.3. The share of the aggregate assessment amount  
11 collected from private acute care hospitals shall be the private hospital  
12 historical assessment share under G.S. 108A-145.3.

13 **SECTION 1.6.(b)** In addition to the enactment of the health system assessments, it  
14 is the intent of the General Assembly to make necessary conforming changes to the modernized  
15 hospital assessments under Article 7B of Chapter 108A of the General Statutes, including all of  
16 the following:

17 (1) The modernized hospital assessments shall not apply to newly eligible  
18 individuals.

19 (2) For purposes of Article 7B of Chapter 108A of the General Statutes, the  
20 definition of FMAP shall account for the temporary increase of Medicaid  
21 FMAP under section 9814 of ARPA.

22 **SECTION 1.6.(c)** It is the intent of the General Assembly to consult with  
23 stakeholders and the Division of Health Benefits of the Department of Health and Human  
24 Services prior to the December 15 meeting of the Joint Legislative Committee on Medicaid Rate  
25 Modernization and Savings in order to develop the health system assessments outlined in  
26 subsection (a) of this section.

## 27 **HEALTHCARE ACCESS AND STABILIZATION PROGRAM**

28 **SECTION 1.10.(a)** It is the intent of the General Assembly to assess hospitals for  
29 the nonfederal share of a directed payment program, to be called the Healthcare Access  
30 Stabilization Program (HASP), that will fund the hospital payments described in this section. The  
31 Department of Health and Human Services (DHHS) shall consult with stakeholders to develop a  
32 submission of a 42 C.F.R. § 438.6(c) preprint to the Centers for Medicare and Medicaid Services  
33 (CMS) to request approval for these payments. The submission shall request the maximum  
34 reimbursement to hospitals that meets both of the following:

35 (1) Is permitted under 42 C.F.R. § 438.6(c).

36 (2) Can be funded entirely through increased hospital assessment receipts that are  
37 in addition to the receipts anticipated from the health system assessments  
38 outlined under Section 1.6 of this act.

39 **SECTION 1.10.(b)** DHHS shall submit the request developed under subsection (a)  
40 of this section to CMS no later than 60 days after the date this act becomes law. Upon submission  
41 to CMS, DHHS shall submit the 42 C.F.R. § 438.6(c) preprint to the Joint Legislative Oversight  
42 Committee on Medicaid and NC Health Choice and the Fiscal Research Division. If CMS does  
43 not approve the initial submission, DHHS shall continue to work with stakeholders and CMS to  
44 obtain approval for the maximum reimbursement that meets the requirements of subsection (a)  
45 of this section. Upon approval by CMS, DHHS shall submit a copy of the approved 42 C.F.R. §  
46 438.6(c) preprint to the Joint Legislative Oversight Committee on Medicaid and NC Health  
47 Choice, the Joint Legislative Committee on Medicaid Rate Modernization and Savings,  
48 established in Section 1.1 of this act, and the Fiscal Research Division.

49 **SECTION 1.10.(c)** The hospital reimbursement increase approved under this section  
50 shall be effective upon the enactment of the legislative language necessary to fund, through  
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1 increased hospital assessments described in subsection (d) of this section, the portion of the  
2 nonfederal share of the reimbursement increase that will not be funded through  
3 intergovernmental transfers. It is the intent of the General Assembly to consult with stakeholders  
4 and the Division of Health Benefits of the Department of Health and Human Services prior to  
5 the December 15 meeting of the Joint Legislative Committee on Medicaid Rate Modernization  
6 and Savings, established in Section 1.1 of this act, to develop a proposal for this language. The  
7 proposal should include any changes needed to the modernized hospital assessments under Part  
8 2 of Article 7B of Chapter 108A of the General Statutes and the proposed health system  
9 assessments outlined in Section 1.6 of this act.

10 **SECTION 1.10.(d)** Upon approval of the 42 C.F.R. § 438.6(c) preprint required  
11 under this section, it is the intent of the General Assembly to enact increases to the hospital  
12 assessments under Article 7B of Chapter 108A of the General Statutes that meet all of the  
13 following criteria, to the extent allowable:

- 14 (1) The increased assessments shall apply at least to all private acute care  
15 hospitals.
- 16 (2) The increased assessments shall collect, in the aggregate, an amount equal to  
17 the portion of the following items that are not funded through  
18 intergovernmental transfers:
  - 19 a. The nonfederal share of the directed payments to hospitals authorized  
20 by the CMS-approved 42 C.F.R. § 438.6(c) preprint.
  - 21 b. The nonfederal share of any other costs to the State associated with  
22 implementing the directed payments, including (i) capitation costs  
23 related to the payment of the gross premiums tax by prepaid health  
24 plans, (ii) the loss of disproportionate share hospital (DSH) receipts,  
25 and (iii) administrative costs.
- 26 (3) The use of the proceeds of the increased assessments and all corresponding  
27 matching federal funds shall be limited. The intended limitations are as  
28 follows:
  - 29 a. The funding described in this subdivision shall be used to fund the  
30 portion of the following items that are not funded through  
31 intergovernmental transfers:
    - 32 1. The nonfederal share of the directed payments to hospitals  
33 authorized by the CMS-approved 42 C.F.R. § 438.6(c)  
34 preprint.
    - 35 2. The nonfederal share of any other costs to the State associated  
36 with implementing the directed payments, including (i)  
37 capitation costs related to the payment of the gross premiums  
38 tax by prepaid health plans, (ii) the loss of disproportionate  
39 share hospital (DSH) receipts, and (iii) administrative costs.
  - 40 b. If any increased assessments are paid in error, invalidly imposed, or  
41 exceed the amounts needed for the items specified in subdivision (2)  
42 of this subsection, then within 12 months of the collection of those  
43 increased assessments, the proceeds shall be refunded in part or in full,  
44 as necessary, to the hospitals that paid the assessment. The refund to  
45 each hospital shall be in proportion to the amount of the collections  
46 paid by the hospital for the State fiscal year.
  - 47 c. The proceeds of the increased assessments shall not be diverted to the  
48 State General Fund or used for a purpose other than described in this  
49 subdivision.

**CREATE SEAMLESS STATEWIDE WORKFORCE DEVELOPMENT OPPORTUNITIES**

**SECTION 2.1.(a)** Seamless Statewide Plan Development. – The Secretary of the Department of Commerce (Secretary) shall develop a plan to create a seamless, statewide, comprehensive workforce development program, bringing together new opportunities and current workforce development programs within the Department of Commerce (Commerce) and other State agencies. The plan to create a seamless, statewide, comprehensive workforce development program (Seamless Statewide Plan) shall be developed in collaboration with the stakeholders outlined in subsection (b) of this section. The Secretary may contract with third-party entities in the development and implementation of the Seamless Statewide Plan. As part of the Seamless Statewide Plan, the Secretary shall strive to ensure that all workforce development opportunities are available to participants statewide by coordinating efforts and resources across State agencies.

The Seamless Statewide Plan developed under this section shall include all of the following components:

- (1) Identification of currently existing workforce development programs for unemployed individuals or low-wage workers in this State and any gaps or opportunities for improvement of those existing programs.
- (2) Identification of the specific labor force needs within the State, specifically including healthcare workforce needs.
- (3) Identification of the specific needs of current and potential future workforce development participants in order to achieve the goal of reducing the number of people that are utilizing social service programs, including the North Carolina Medicaid program.
- (4) All of the following specific services shall be included in the Seamless Statewide Plan:
  - a. Job training assistance.
  - b. Career paths and job readiness.
  - c. Job placement.
  - d. Resources for job seekers.
  - e. Recruiting services.
  - f. Healthcare workforce support.
- (5) Measures by which to determine the success of the workforce development programs, such as increases in participant earning capacity, greater economic stability of participants, and self-sufficiency of participants.

**SECTION 2.1.(b)** Collaboration with Stakeholders. – As part of the development of the Seamless Statewide Plan required under subsection (a) of this section, the Secretary shall collaborate with the following entities:

- (1) NCWorks.
- (2) The Department of Labor.
- (3) The North Carolina Community College System.
- (4) The North Carolina Area Health Education Centers (AHEC).
- (5) The Department of Public Instruction.
- (6) The University of North Carolina.
- (7) The Department of Health and Human Services (DHHS).
- (8) Hospitals and healthcare providers licensed in the State.
- (9) Prepaid health plans, as defined under G.S. 108D-1.
- (10) The North Carolina nonprofit corporation with which the Department of Commerce contracts pursuant to G.S. 143B-431.01(b).
- (11) The North Carolina Chamber.
- (12) Any North Carolina community organization with relevant expertise.

1 (13) Local workforce development boards.

2 (14) Any other stakeholder deemed appropriate by the Secretary.

3 **SECTION 2.2.** Referral Requirements. – In collaboration with Commerce, DHHS  
4 shall develop a method by which to assist individuals enrolled in the North Carolina Medicaid  
5 program and other relevant social service programs with accessing appropriate workforce  
6 development services. DHHS shall develop a referral plan for assessing the current employment  
7 status, and any barriers to employment, of Medicaid beneficiaries and other relevant social  
8 service programs, including the individuals that will be newly eligible for Medicaid benefits upon  
9 implementation of the Medicaid Modernization Plan, if enacted, under Section 1.2 of this act.  
10 DHHS and Commerce shall determine the best method by which to provide Medicaid  
11 beneficiaries and beneficiaries of other relevant social service programs an initial assessment and  
12 consultation with a workforce development case manager, or other similar professional. This  
13 method shall ensure that interested individuals are able to fully participate in the workforce  
14 development programs offered in this State. DHHS may contract with third-party entities or  
15 prepaid health plans, as defined under G.S. 108D-1, to assist in providing these services and may  
16 consider the use of incentives to prepaid health plans with regard to these services.

17 **SECTION 2.3.(a)** Initial Seamless Statewide Plan Report. – No later than March 1,  
18 2023, the Secretary of Commerce shall report to the Joint Legislative Oversight Committee on  
19 General Government, the Joint Legislative Oversight Committee on Health and Human Services,  
20 and the Joint Legislative Oversight Committee on Medicaid and NC Health Choice regarding the  
21 Seamless Statewide Plan required under Section 2.1 of this act. The report shall include, at a  
22 minimum, all of the following:

- 23 (1) The Seamless Statewide Plan developed in accordance with Section 2.1 of this  
24 act, including the anticipated date of implementation.
- 25 (2) Identification of the entity within the Department of Commerce that will be  
26 responsible for implementation of the Seamless Statewide Plan.
- 27 (3) The workforce needs of North Carolina employers by industry, skill, required  
28 education level, and geography.
- 29 (4) Existing workforce development gaps and opportunities for improvement.
- 30 (5) Workforce training infrastructure and needs.
- 31 (6) The estimated cost to the State for both the implementation of the Seamless  
32 Statewide Plan and the continued successful operation of the plan into the  
33 future. It is the intent of the General Assembly that some or all of the costs of  
34 implementation and operation be funded through the health system  
35 assessments outlined in Section 1.6 of this act.

36 **SECTION 2.3.(b)** Referral Plan Report. – No later than March 1, 2023, DHHS shall  
37 report to the Joint Legislative Oversight Committee on Medicaid and NC Health Choice and to  
38 the Joint Legislative Oversight Committee on Health and Human Services on the referral plan  
39 for assessing the current employment status of, and any barriers to employment related to,  
40 beneficiaries of Medicaid and other relevant social service programs, as required by Section 2.2  
41 of this act. The report shall include all of the following:

- 42 (1) A time line for implementation of the referral plan, including the identified  
43 method to provide an initial assessment and consultation with a workforce  
44 development case manager, or other similar professional.
- 45 (2) The estimated cost to the State for both the initial implementation of the  
46 referral plan and any ongoing costs, including costs associated with the initial  
47 assessment and consultation. It is the intent of the General Assembly that some  
48 or all of the implementation and operation costs be funded through the health  
49 system assessments outlined in Section 1.6 of this act.

50 **SECTION 2.3.(c)** Ongoing Reporting. – No later than December 1, 2023, and for  
51 four years thereafter, DHHS, in collaboration with Commerce, shall report to the Joint Legislative

1 Oversight Committee on Medicaid and NC Health Choice, the Joint Legislative Oversight  
2 Committee on Health and Human Services, and the Fiscal Research Division, the following  
3 information:

- 4 (1) The total number of Medicaid beneficiaries and beneficiaries of other relevant  
5 social service programs who have participated in workforce development  
6 programs, including the number of individuals who completed an assessment  
7 or consultation with a workforce development case manager or similar  
8 professional.
- 9 (2) The total number of Medicaid beneficiaries eligible for Medicaid due to  
10 implementation of the Medicaid Modernization Plan under Section 1.2 of this  
11 act, if enacted.
- 12 (3) A breakdown of the types of workforce development services or programs  
13 participated in by beneficiaries of Medicaid and other relevant social service  
14 programs.
- 15 (4) The average length of time individuals who participated in workforce  
16 development programs remained eligible for Medicaid benefits and benefits  
17 under other relevant social service programs.
- 18 (5) The number of individuals who were employed or reemployed in a position  
19 providing higher wages as a result of participation in a workforce development  
20 program or service. Of these individuals, the number of individuals who were  
21 no longer qualified for Medicaid or any other relevant social service as a  
22 result.

## 23 24 **PURSUIT OF WORK REQUIREMENTS UNDER THE MEDICAID PROGRAM**

25 **SECTION 2.4.** If there is any indication that work requirements as a condition of  
26 participation in the Medicaid program may be authorized by the Centers for Medicare and  
27 Medicaid Services (CMS), then the Department of Health and Human Services, Division of  
28 Health Benefits (DHB), shall enter into negotiations with CMS to develop a plan for those work  
29 requirements and to obtain approval of that plan. Within 30 days of entering into negotiations  
30 with CMS pursuant to this section, DHB shall notify, in writing, the Joint Legislative Oversight  
31 Committee on Medicaid and NC Health Choice (JLOC) and the Fiscal Research Division (FRD)  
32 of these negotiations. Within 30 days of approval by CMS of a plan for work requirements as a  
33 condition of participation in the Medicaid program, DHB shall submit a report to JLOC and FRD  
34 containing the full details of the approved work requirements, including the approved date of  
35 implementation of the requirements.

## 36 37 **EFFECTIVE DATE**

38 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes  
39 law.